

AMENDED IN ASSEMBLY JUNE 28, 2004

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE APRIL 15, 2004

**SENATE BILL**

**No. 1820**

**Introduced by Senator Machado**

February 20, 2004

---

---

An act to amend Sections 51203, 51283, ~~51284.1, and 56754~~ and ~~51284.1~~ of, and to add Section 51283.5 to, the Government Code, relating to land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1820, as amended, Machado. Land conservation contracts.

Existing law makes the current fair market valuations required to determine the cancellation fee for removing land from a Williamson Act conservation contract subject to appeal to the county board of equalization. Existing law requires the county assessor to send a notice to the assessee that indicates the current fair market value of the land as though it were free of the contractual restriction and that advises the assessee of his or her right to appeal the determination, as specified.

This bill would delete the assessee's right to an appeal and instead require the assessor to notify the assessee of his or her opportunity to select an independent appraiser. The bill would permit the Department of Conservation or the landowner, if either believes that the current fair market valuations are inaccurate, to request formal review from the county assessor in the county considering the cancellation petition, and would require the department and the landowner to mutually select an

independent appraiser to calculate the current unrestricted fair market value of the property to serve as the basis for the valuation for the cancellation penalty, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 51203 of the Government Code is  
2 amended to read:

3 51203. (a) The assessor shall determine the current fair  
4 market value of the land as if it were free of the contractual  
5 restriction pursuant to Section 51283. The assessor may use the  
6 State Board of Equalization Assessor's Handbook, or other  
7 guidance issued by the board, for assistance with determining  
8 valuation of land proposed for cancellation. The Department of  
9 Conservation or the landowner may provide information to assist  
10 the assessor to determine the value.

11 (b) Within 30 days of receiving the assessor's notice pursuant  
12 to subdivision (a) of Section 51283, if the Department of  
13 Conservation or the landowner believes that the current fair  
14 market valuations referred to in Section 51283 are not accurate, the  
15 department or the landowner may request formal review from the  
16 county assessor in the county considering the petition to cancel the  
17 contract. The department or the landowner shall submit the  
18 reasons for believing the valuation is not accurate.

19 (1) If no request is made within 30 days of receiving notice of  
20 the valuation, the assessor's valuation shall be used to calculate the  
21 fee.

22 (2) Upon receiving a request for formal review, the assessor  
23 may formally review the valuation for 30 days. The assessor may  
24 contact the department and the landowner regarding the valuation  
25 and consider any information submitted by the department and the  
26 landowner regarding the valuation.

27 (3) After 30 days, the assessor shall either revise the valuation,  
28 or determine that the valuation is accurate. The assessor shall send  
29 the revised valuation or notice of the determination that the  
30 valuation is accurate to the department, the landowner, and board  
31 or council considering the petition to cancel the contract. The



1 department or the landowner may inform the assessor within 30  
2 days of their belief that the valuation is still not accurate.

3 (c) At the request of the department or the landowner, an  
4 independent appraiser licensed by the California Office of Real  
5 Estate Appraisers and certified by either the California Chapter of  
6 the American Society of Farm Managers and Rural Appraisers  
7 (CALasfmra) or a member of the Appraisal Institute (MAI) shall  
8 be mutually selected to calculate the current fair market value of  
9 the land as though it were free of contractual restriction. The  
10 independent appraiser shall send his or her valuation to the  
11 assessor, the landowner, the board or council considering the  
12 petition to cancel the contract, and the department. The  
13 independent appraiser's valuation shall serve as the cancellation  
14 valuation of the property, unless the independent appraiser's value  
15 is not 10 percent higher or lower than the value determined by the  
16 assessor, in which case the assessor's value shall serve as the  
17 cancellation valuation of the property.

18 (d) The county or city may issue final cancellation before the  
19 independent appraiser determines the valuation if the landowner  
20 pays the cancellation fee and provides security determined to be  
21 adequate by the department for 20 percent of the cancellation fee  
22 based on the assessor's valuation. The board of supervisors or the  
23 city council shall hold the security, and release the security  
24 immediately upon payment of the cancellation fee determined  
25 pursuant to this section.

26 (e) Notwithstanding the provisions of this section, the  
27 department and the landowner may agree on a cancellation  
28 valuation of the land. The agreed valuation shall serve as the  
29 cancellation valuation pursuant to Section 51283.

30 (f) The costs of the appraisal shall be paid by the party  
31 requesting the appraisal.

32 (g) This section provides the exclusive process for the appeal  
33 or adjustment of the cancellation valuation pursuant to this  
34 chapter.

35 SEC. 2. Section 51283 of the Government Code is amended  
36 to read:

37 51283. (a) Prior to any action by the board or council giving  
38 tentative approval to the cancellation of any contract, the county  
39 assessor of the county in which the land is located shall determine  
40 the current fair market value of the land as though it were free of

1 the contractual restriction. The assessor shall certify to the board  
2 or council the cancellation valuation of the land for the purpose of  
3 determining the cancellation fee. At the same time, the assessor  
4 shall send a notice to the landowner and the department indicating  
5 the current fair market value of the land as though it were free of  
6 the contractual restriction. The notice shall advise the landowner  
7 and the department of the opportunity to request formal review  
8 from the assessor and to select an independent appraiser pursuant  
9 to Section 51203.

10 (b) Prior to giving tentative approval to the cancellation of any  
11 contract, the board or council shall determine and certify to the  
12 county auditor the amount of the cancellation fee that the  
13 landowner shall pay the county treasurer upon cancellation. That  
14 fee shall be an amount equal to  $12\frac{1}{2}$  percent of the cancellation  
15 valuation of the property.

16 (c) If it finds that it is in the public interest to do so, the board  
17 or council may waive any payment or any portion of a payment by  
18 the landowner, or may extend the time for making the payment or  
19 a portion of the payment contingent upon the future use made of  
20 the land and its economic return to the landowner for a period of  
21 time not to exceed the unexpired period of the contract, had it not  
22 been canceled, if all of the following occur:

23 (1) The cancellation is caused by an involuntary transfer or  
24 change in the use which may be made of the land and the land is  
25 not immediately suitable, nor will be immediately used, for a  
26 purpose which produces a greater economic return to the owner.

27 (2) The board or council has determined that it is in the best  
28 interests of the program to conserve agricultural land use that the  
29 payment be either deferred or is not required.

30 (3) The waiver or extension of time is approved by the  
31 Secretary of the Resources Agency. The secretary shall approve a  
32 waiver or extension of time if the secretary finds that the granting  
33 of the waiver or extension of time by the board or council is  
34 consistent with the policies of this chapter and that the board or  
35 council complied with this article. In evaluating a request for a  
36 waiver or extension of time, the secretary shall review the findings  
37 of the board or council, the evidence in the record of the board or  
38 council, and any other evidence the secretary may receive  
39 concerning the cancellation, waiver, or extension of time.



(d) The first nine hundred eighty-five thousand dollars (\$985,000) of revenue paid to the Controller pursuant to subdivision (e) in the 1992–93 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of both of the following:

(1) The total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 65570.

(2) The soil conservation program identified in Section 614 of the Public Resources Code.

(e) When cancellation fees required by this section are collected, they shall be transmitted by the county treasurer to the Controller and deposited in the General Fund, except as provided in subdivision (d). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the Controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.

(f) It is the intent of the Legislature that fees paid to cancel a contract do not constitute taxes but are payments that, when made, provide a private benefit that tends to increase the value of the property.

SEC. 3. Section 51283.5 is added to the Government Code, to read:

51283.5. (a) The Legislature finds and declares that cancellation fees should be calculated in a timely manner and disputes over cancellation fees should be resolved before a city or county approves a tentative cancellation. However, the city or county may approve a tentative cancellation notwithstanding an assessor's formal review or an independent appraisal.

(b) If the valuation changes after the approval or a tentative cancellation, the certificate of tentative cancellation shall be amended to reflect the correct valuation and cancellation fee.

(c) If the landowner wishes to pay a cancellation fee when a formal review or an independent appraisal has been requested, he or she may pay the fee when a formal review or an independent appraisal has been requested, he or she may pay the fee required

1 in the current certificate of cancellation and provide security  
2 pursuant to subdivision (d) of Section 51203.

3 (d) The city or county may approve a final cancellation  
4 notwithstanding the formal review or independent appraisal. The  
5 certificate of final cancellation shall include a statement that  
6 formal review or independent appraisal of the cancellation fee has  
7 been requested, that the cancellation fee may be adjusted, and that  
8 the landowner has provided adequate security, including the form  
9 and amount of security provided.

10 (e) The obligation or benefit from any formal review or  
11 independent appraisal runs with the land. Upon resolution, the  
12 landowner shall either pay the balance owed to the county  
13 treasurer, or receive from the county treasurer or the controller any  
14 amount of overpayment. The landowner shall also be entitled to  
15 the immediate release of any security.

16 (f) Any judicial challenge to the cancellation valuation must be  
17 made within two years of the receipt of notice of the most recent  
18 assessor's valuation or receipt of the results of an independent  
19 appraisal.

20 SEC. 4. Section 51284.1 of the Government Code is amended  
21 to read:

22 51284.1. (a) When a landowner petitions a board or council  
23 for the tentative cancellation of a contract and when the board or  
24 council accepts the application as complete pursuant to Section  
25 65943, the board or council shall immediately mail a notice to the  
26 Director of Conservation. The notice shall include all of the  
27 following:

28 (1) A copy of the petition.

29 (2) A copy of the contract.

30 (3) A general description, in text or by diagram, of the land that  
31 is the subject of the proposed cancellation.

32 (4) The deadline for submitting comments regarding the  
33 proposed cancellation. That deadline shall be consistent with the  
34 Permit Streamlining Act (Chapter 4.5 (commencing with Section  
35 65920) of Division 1 of Title 7), but in no case less than 30 days  
36 prior to the scheduled action by the board or council.

37 (b) The board or council shall send that information to the  
38 assessor that is necessary to describe the land subject to the  
39 proposed cancellation. The information shall include the name and  
40 address of the landowner petitioning the cancellation.



1 (c) The Director of Conservation shall review the proposed  
2 cancellation and submit comments to the board or council by the  
3 deadline specified in paragraph (4) of subdivision (a). Any  
4 comments submitted shall advise the board or council on the  
5 findings required by Section 51282 with respect to the proposed  
6 cancellation.

7 (d) Prior to acting on the proposed cancellation, the board or  
8 council shall consider the comments by the Director of  
9 Conservation, if submitted.

10 (e) The board or council may include the cancellation valuation  
11 of the land as part of the petition.

12 ~~SEC. 5.—Section 56754 of the Government Code is amended~~  
13 ~~to read:~~

14 ~~56754.—(a) If a change of organization or reorganization~~  
15 ~~approved by the commission prior to January 1, 2006, would result~~  
16 ~~in the annexation to a city of land that is subject to a contract~~  
17 ~~executed pursuant to the Williamson Act (Chapter 7 (commencing~~  
18 ~~with Section 51200) of Division 1), the commission, based on~~  
19 ~~substantial evidence in the record, shall determine one of the~~  
20 ~~following:~~

21 ~~(1) That the city shall succeed to the rights, duties, and powers~~  
22 ~~of the county pursuant to Section 51243, or~~

23 ~~(2) That the city may exercise its option to not succeed to the~~  
24 ~~rights, duties, and powers of the county pursuant to Section~~  
25 ~~51243.5.~~

26 ~~(b) If a change of organization or reorganization approved by~~  
27 ~~the commission on or after January 1, 2006, would result in the~~  
28 ~~annexation to a city of land that is subject to a contract executed~~  
29 ~~pursuant to the Williamson Act (Chapter 7 (commencing with~~  
30 ~~Section 51200) of Division 1), the commission shall determine~~  
31 ~~that the city shall succeed to the rights, duties, and powers of the~~  
32 ~~county pursuant to Section 51243.~~